

REMARKS

Status of the Claims

Independent claims 5, 13, 19, and 42 have been amended to remove the limitation that the composition is "free of glycerol and polyethylene glycol polymers." Claims 5, 13, 19, and 42 have also been amended to include the limitation that the compositions are prepared using a method "consisting of" the recited steps. Support for limiting the method of preparation to the recited steps resides throughout the specification, for example, in the Experimental section. No new matter is added by way of claim amendment.

Claims 5-9, 13-17, 19, 20, 26-43, and 45-49 are pending in the application. Reexamination and reconsideration of the claims are respectfully requested in view of these amendments and the following remarks. The Examiner's comments in the Office Action are addressed below in the order set forth therein.

The Rejection of the Claims Under 35 U.S.C. § 112, First Paragraph, Should Be Withdrawn

The Examiner has rejected claims 5-9, 13-17, 19, 20, 26-43, and 45-49 under 35 U.S.C. § 112, first paragraph, for failing to comply with the written description requirement of Section 112. Specifically, the Examiner asserts that:

The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. This is a new matter rejection. The specification provides no written description for 'composition being free of glycerol and polyethylene glycol polymers.' Applicant on page 15, lines 22-28 of the specification does not teach that the addition of stabilizers such as glycerol is optional. Therefore, the recitation of 'composition being free of glycerol and polyethylene glycol polymers' is considered 'new matter.'

Office Action dated November 27, 2006, page 3, lines 2-10; emphasis in original.

As previously made of record, this rejection is respectfully traversed. However, solely to advance prosecution, Applicants have amended claims 5, 13, 19, and 42 to remove the limitation that the composition is "free of glycerol and polyethylene glycol polymers." Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw this rejection of

Appl. No.: 10/035,420
Filed: October 25, 2001
Amdt. Dated December 10, 2007


claims 5-9, 13-17, 19, 20, 26-43, and 45-49 under 35 U.S.C. § 112, first paragraph, written description.

CONCLUSION

In view of the foregoing amendments and remarks, Applicants respectfully submit that the rejection of the pending claims under 35 U.S.C. § 112 is overcome. Applicants respectfully submit that this application is now in condition for allowance. Early notice to this effect is solicited. If in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject Application, the Examiner is invited to call the undersigned attorney.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



David E. Cash
Registration No. 52,706

Customer No. 45853
ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000
Tel Raleigh Office (919) 862-2200
Fax Raleigh Office (919) 862-2260

**ELECTRONICALLY FILED USING THE EFS-WEB
ELECTRONIC FILING SYSTEM OF THE UNITED
STATES PATENT & TRADEMARK OFFICE ON
DECEMBER 10, 2007.**